



U.S. Department of Justice

United States Attorney for the
Southern District of New York

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August 23, 2022

VIA ECF

Hon. Denise L. Cote
United States District Judge
Southern District of New York
500 Pearl St.
New York, New York 10007

Re: *Hettiarachchige, et al. v. Bitter, et al.*, No. 22 Civ. 3622 (DLC)

Dear Judge Cote:

This Office represents the defendants (the “government”) in the above-referenced action, in which the plaintiffs seek an order directing that the United States Department of State (“State Department”) adjudicate a visa application that is based on a previously-approved Petition for Alien Relative (“Form I-130”). The Court recently scheduled an in-person pretrial conference for Friday, August 26, 2022. *See* ECF No. 42. I write respectfully to request that (1) the Court adjourn the pretrial conference until after the Court decides the government’s pending and fully-briefed motion to dismiss the complaint, to the extent that any claims remain after the Court decides the motion; and (2) should the Court deny the request to adjourn the conference or reschedule it for a certain date at this juncture, permit counsel to attend the conference via telephone rather than in person. The reason for the requested adjournment of the conference until after the Court decides the government’s motion to dismiss is that a decision granting the motion to dismiss would obviate the need for a pretrial conference. To the extent the Court does not grant the motion to dismiss in full, it is the government’s position that this case should be decided without discovery and likely based upon an administrative record. Plaintiffs consent to a brief adjournment of the conference, but only for 30 days to allow for a visa decision from the U.S. Consulate in Sri Lanka. This is the government’s first request for an adjournment of the initial conference.

Additionally, should Court deny the request to adjourn the conference or reschedule it for a certain date at this juncture, I respectfully request that the Court permit counsel to attend the conference via telephone rather than in person. The reason for the request is that I am a Special Assistant United States Attorney who works remotely from Chicago, Illinois. Plaintiffs consent to this request.

The conference is cancelled
Denise Cote
8/23/22

I thank the Court for its consideration of this request.

Respectfully submitted,

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/s/ Joshua S. Press
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cc: Counsel of record (by ECF)